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DUALCOR TECHNOLOGIES, INC.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE BRANCH**

DUALCOR TECHNOLOGIES, INC.

Plaintiff,

v.

INTEL CORPORATION,

Defendant.

CASE NO.

**COMPLAINT FOR TRADEMARK AND
TRADE NAME INFRINGEMENT**

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff DualCor Technologies, Inc. ("DualCor") alleges against defendant Intel Corporation ("Intel"):

INTRODUCTION

1. DualCor seeks relief from this Court to stop Intel's infringement of DualCor's name and registered trademark. Intel markets products and technology as "Dual Core" which misappropriate and infringe upon the name and registered trademark owned by DualCor.

2. DualCor seeks money damages to compensate for Intel's past misuse of DualCor's name and mark. DualCor also asks the Court to use its injunctive powers to protect the name and mark of DualCor.

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THE PARTIES

3. DualCor is a California corporation with its principal place of business in Capitola, Santa Cruz County, California. DualCor was incorporated in December, 2000, as GCVI, Inc. Thereafter, in December, 2003, GCVI, Inc. changed its name to DualCor Technologies, Inc.

4. Intel is a Delaware corporation with its principal place of business at 2200 Mission College Boulevard, Santa Clara County, California, within this judicial district.

JURISDICTION AND VENUE

5. This is an action for infringement of a trademark and trade name under §32 of the Lanham Act, 15 U.S.C. §1114. This Court has subject matter jurisdiction under 28 U.S.C. §§1331 and 1338(a) and (b).

6. Venue within this judicial district is proper under 28 U.S.C. §§1391(b) and (c).

Claim For Trademark and Trade Name Infringement

7. DualCor realleges and incorporates by reference paragraphs 1-6 inclusive.

8. At all material times, DualCor has been and is engaged in the development of computing and telecommunications technology and products. Over the years, DualCor employees developed proprietary technology which enhances the processing power, efficiency and portability of computing devices by deploying multiple CPUs (central processing units) working together.

9. DualCor first adopted and used the name and mark "DUALCOR" to identify its company and its products in December of 2003. First use in commerce was December, 2005.

10. On May 14, 2004, DualCor filed with the United States Patent and Trademark Office an application for the "DUALCOR" trademark.

11. On July 25, 2006, the "DUALCOR" trademark was registered in the United States Patent and Trademark Office under United States Trademark Registration No. 3,121,648. DualCor owns the registration, which is and continues to be in full force and

1 effect. A copy of DualCor's Certificate of Registration is attached as Exhibit 1 and
2 incorporated by reference.

3 12. DualCor has used the trademark "DUALCOR" continuously since at least
4 December, 2003, to identify its technology and products. In this connection, DualCor uses
5 its trademark on publications, business plans, and other documents that it circulates and uses
6 in the operation of its business.

7 13. DualCor has, for example, used its name and mark in communications with
8 prospective investors, strategic partners, and licensees of DualCor technology. DualCor has
9 used and circulated its mark throughout California, other States, and overseas.

10 14. To its prospective customers, strategic partners and licensees, DualCor was
11 known by its name and mark until Intel misappropriated them. Although DualCor has never
12 been a large company, it has attempted to build its place in the electronics industry as a
13 reliable and creative developer of sophisticated technology. Critical to the company's
14 success was the establishment of a DualCor brand which the industry would associate with
15 reliability and quality.

16 15. Intel had actual knowledge of DualCor's name beginning as early as
17 December, 2003.

18 16. On or about July 27, 2006, Intel introduced a new product line which it called
19 "Core 2 Duo." Thereafter Intel launched an aggressive marketing campaign which included
20 the slogan "Dual-Core. Do More."

21 17. Since approximately July, 2006, Intel has used the DUALCOR name and
22 mark to market Intel products through the national and international media. The slogan
23 "Dual-Core. Do More." is at least a colorable imitation of plaintiffs' registered trademark.
24 Intel uses "Dual-Core. Do More." in interstate commerce in connection with the sale,
25 offering for sale, distribution and advertising of its vast Core 2 product line. As such, Intel's
26 use of the name "Dual-Core" is likely to cause confusion, mistake or deception among
27 consumers as to the source, quality and nature of DualCor's goods.

18. The nature of this confusion, mistake or deception among consumers is particularly pronounced because Intel's misappropriation of the DualCor trademark has been so blatant. Two companies are now using the DualCor trademark. One of them, Intel, is a giant multi-national company with enormous resources to market its products and itself. The other, DualCor Technologies, Inc., is a very small startup company in Capitola. Within the technology industry, it is inevitable that DualCor Technologies, Inc. will be seen as the usurper of Intel's trademark and intellectual property, because it is almost unthinkable – without knowing the facts of this case – that a company as big and well-established as Intel would simply help itself to the name and trademark of a tiny company. As a consequence, DualCor is unable to build its brand as a reliable, quality developer of sophisticated technology.

19. DualCor is informed and believes and thereon alleges that as a result of the advantage accruing to Intel's business from the wrongful use of DualCor's trademark, Intel has made substantial sales and profits in an amount exceeding \$1 billion.

20. As a result of the disadvantage accruing to DualCor because of confusion in the marketplace caused by Intel's wrongful use of the DualCor name and mark, DualCor has been deprived of substantial sales or license revenues from its technology, and has been deprived of the value of its trademark as a commercial asset, in an approximate amount greater than \$1 million, according to proof.

21. DualCor is informed and believes and thereon alleges that unless restrained by this Court, Intel will continue to infringe plaintiff's registered trademark, thus engendering a multiplicity of judicial proceedings, and pecuniary compensation will not afford DualCor adequate relief for the damage to its trademark in the public perception.

PRAYER FOR RELIEF

WHEREFORE, DualCor prays for judgment against Intel as follows:

1. That Intel be ordered to disgorge all profits, and pay to DualCor all damages caused to DualCor by reason of Intel's infringement of DualCor's name and trademark;

2. That Intel, its subsidiaries, officers, agents, servants, employees, licensees and all other persons acting or attempting to act in active concert or participation with them or acting on their behalf, be preliminarily and permanently enjoined from further infringement, inducement of infringement, or contributory infringement of the "DUALCOR" trademark;

3. That the Court grant such other and further relief as the Court may deem just and proper under the circumstances.

DATED: August 27, 2007

RUBY & SCHOFIELD

BY

ALLEN RUBY
Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial pursuant to Rule 38 of the Federal Rules of Civil Procedure as to all issues in this lawsuit.

DATED: August 27, 2007

RUBY & SCHOFIELD

BY

ALLEN RUBY
Attorneys for Plaintiff

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